

**WAGE WITHHOLDING FOR
DEFAULTED
STUDENT LOANS**

A HANDBOOK FOR EMPLOYERS



STATE OF MICHIGAN
DEPARTMENT OF TREASURY
LANSING

RICK SNYDER
GOVERNOR

NICK A. KHOURI
STATE TREASURER

To Employer:

This page provides a brief summary of the Administrative Wage Garnishment (“AWG”) process; details and instructions to help you comply are contained in the following pages. Please read all materials carefully.

Use the Employer Acknowledgement form to confirm receipt of the Order promptly after receipt, even if the person no longer works for you. Remember to provide the information requested on the form if you claim that the person no longer works for you.

The Federal Family Education Loan Program (FFELP), which encourages private capital to fund low interest loans for postsecondary education, is administered by guaranty agencies, such as the Michigan Guaranty Agency, on behalf of the Federal government (See list of authorized guaranty agencies from United States Department of Education enclosed). One of the methods by which the Michigan Guaranty Agency collects payment on those FFELP loans that go into default is through AWG, which permits garnishment without a court order. A Federal statute (20 USC 1095a et. seq.) that overrides state law authorizes this process.

This Handbook contains instructions on how to implement an Order of Withholding which was sent to you with respect to one or more persons for whom our records indicate work for you. Before the Order of Withholding was sent, the employee(s) was notified and given an opportunity to review the Michigan Guaranty Agency’s records relating to the debt, to resolve the debt voluntarily, and to have a hearing concerning the debt.

Federal law makes you liable for amounts you fail to withhold from your employee’s wages after you received the Order. However, you are not required to vary your normal pay/disbursement cycles. Also, the law prohibits you from discharging, refusing to employ or taking disciplinary action against the employee just because his/her wages have been made subject to the AWG process.

Unless a lesser amount has been ordered after an AWG hearing or the borrower has agreed to a greater amount, the law permits garnishment of up to 15% of disposable pay for the pay period, subject to an aggregate maximum of 25% and a protected “floor” of 30 times the Federal minimum hourly wage per work week (see 15 USC 1673). This Handbook contains the instructions to help you calculate the proper amount and a worksheet for calculation was included in the Order. Any lesser amount ordered after an AWG hearing, or any greater amount agreed to by the borrower, is reflected in the Order and should be used instead of using the worksheet.

Thank you for your anticipated cooperation. If you have any questions, please call AWG Unit, Michigan Guaranty Agency, Collections Division, P.O. Box 30047, Lansing, Michigan 48909-7547, 1-800-642-5626.



UNITED STATES DEPARTMENT OF EDUCATION
830 First Street, NE
Union Center Plaza
Washington, D.C. 20202

The following organizations have agreements with the U.S. Department of Education to participate in the Federal Family Education Loan (FFEL) Program as guaranty agencies under Section 428(b) of the Higher Education Act of 1965, as amended (HEA). The guaranty agencies on this list are authorized by section 488A of the HEA, to issue administrative wage garnishment withholding orders at a rate of 15% to employers, to recover FFEL debts owed by individuals who have defaulted on their student loan repayment obligations. This authority does not apply to Federal agencies or their employees.

AMERICAN STUDENT ASSISTANCE (MASSACHUSETTS)
STUDENT LOAN GUARANTEE FOUNDATION OF ARKANSAS
CALIFORNIA STUDENT AID COMMISSION
COLORADO STUDENT LOAN PROGRAM
CONNECTICUT STUDENT LOAN FOUNDATION
EDUCATION ASSISTANCE CORPORATION (SOUTH DAKOTA)
EDUCATIONAL CREDIT MANAGEMENT CORPORATION
FLORIDA DEPARTMENT OF EDUCATION/OFFICE OF STUDENT FINANCIAL ASSISTANCE
GEORGIA HIGHER EDUCATION ASSISTANCE FOUNDATION
GREAT LAKES HIGHER EDUCATION CORPORATION (WI)
ILLINOIS STUDENT ASSISTANCE COMMISSION
IOWA COLLEGE STUDENT AID COMMISSION
KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY
LOUISIANA OFFICE OF STUDENT FINANCIAL ASSISTANCE
FINANCE AUTHORITY OF MAINE
MICHIGAN HIGHER EDUCATION ASSISTANCE AUTHORITY
MISSOURI DEPARTMENT OF HIGHER EDUCATION
MONTANA GUARANTEED STUDENT LOAN PROGRAM
NATIONAL STUDENT LOAN PROGRAM (NEBRASKA)
NEW HAMPSHIRE HIGHER EDUCATION ASSISTANCE FOUNDATION
NEW JERSEY HIGHER EDUCATION ASSISTANCE AUTHORITY
NEW MEXICO STUDENT LOAN GUARANTEE CORPORATION
NEW YORK STATE HIGHER EDUCATION SERVICES CORPORATION
NORTH CAROLINA STATE EDUCATION ASSISTANCE AUTHORITY
STUDENT LOANS OF NORTH DAKOTA
OKLAHOMA GUARANTEED STUDENT LOAN PROGRAM
OREGON STUDENT ASSISTANCE COMMISSION
AMERICAN EDUCATION SERVICES/PHEEA
RHODE ISLAND HIGHER EDUCATION ASSISTANCE AUTHORITY
SOUTH CAROLINA STUDENT LOAN CORPORATION
TENNESSEE STUDENT ASSISTANCE CORPORATION
TEXAS GUARANTEED STUDENT LOAN CORPORATION
USA FUNDS
UTAH HIGHER EDUCATION ASSISTANCE AUTHORITY
VERMONT STUDENT ASSISTANCE CORPORATION
NORTHWEST EDUCATION LOAN ASSOCIATION (NELA)

Employer Withholding Instructions

Steps you must take:

1. **Check** the debtor's name and social security number contained in the Order against your records and **complete and return** the Employer Acknowledgment of Wage Withholding form ("Acknowledgement") immediately. Your liability for withholding begins when you receive the Order, not when you submit the Acknowledgement.
 - If, when you receive the Order, you no longer are obligated to pay the debtor (for example, because the debtor's employment was involuntarily terminated or the debtor left for another job) promptly complete and submit the Acknowledgement, including the debtor's last known address and, if known, the name and address of the debtor's new employer, if any.
 - If your obligation to pay the debtor ends after you have received the Order, promptly complete and submit a Notice of Change of Employment form to provide us with the basis for issuing you a Release of Order of Withholding ("Release"). Remember that income earned up to the termination date and any other compensation, such as severance pay, are subject to withholding.
2. **Calculate and deduct** the amount to be withheld for each pay period, beginning with the first pay period that occurs after you received the Order, using the AWG WITHHOLDING WORKSHEET. **NOTE:** if the Order specifies the amount to be withheld, or if a Modification of Order has been issued (see "Multiple Withholdings" below), you do not need to use the WORKSHEET.
3. **Submit the amount withheld**, payable to Michigan Guaranty Agency, P.O. Box 7074, Indianapolis, Indiana 46207-7074. Be sure each check includes (a) debtor name and Social Security number; (b) employer name and Federal Employer Identification Number; and (c) notation indicating that it is a wage withholding payment. If you are making payments for two or more debtors, you may combine payments as long as the check stub or transmittal sheet properly identifies the amount remitted for each employee.
4. **Repeat steps 2 and 3** for each pay period until (a) the Michigan Guaranty Agency provides you with a Release; or (b) your obligation to pay the debtor ends. Although deductions are to be made at each pay period, remittance need only be made once each month. You are not required to change normal pay and disbursement cycles to comply with the Order.

Multiple Withholdings*:

Limitations:

If the debtor is subject to multiple garnishments during a pay period, Federal law (see 15 USC Section 1673 and F.A.Q. #1, below) may limit your ability to withhold, for that pay period, the full amount called for under the Order. If so, you must inform us, in writing, immediately.

Priorities:

Generally, garnishments must be satisfied in the order in which they are issued to the employer, up to the maximum amount subject to that kind of garnishment order.

- Be sure to check the effective duration of any state law garnishments. Many of them remain in effect only for a limited time; when they lapse, the next-in-line garnishment would take over.
- Federal student loan garnishments (such as the Order) do not have duration limitations; they do not end until (a) the debt is paid in full (NOTE: the total amount the debtor owes is more than the amount indicated in the Order under “ Total Amount Currently Due” because, among other things, interest continues to accrue); (b) your obligation to pay the debtor otherwise has ended; (c) a bankruptcy “ stay” suspends the garnishment; or (c) the debt is discharged or otherwise resolved.
- Garnishments for child support or IRS levy take precedence over withholding for student loan debts, regardless of when they begin. If you receive a garnishment order for child support or IRS levy after you have received our AWG Order, contact the AWG Unit at 1-800-642-5626.

* This information reflects the Michigan Guaranty Agency’s understanding concerning the general aspects of multiple withholding under AWG but is not intended as legal advice.

Your compliance is mandatory:

Federal law [(20 USC 1095a(a)(6))] makes you liable for any amount that you should, but do not, withhold following receipt of the Order. The Michigan Guaranty Agency may sue you in State or Federal court to recover those sums, together with attorney’s fees, costs and, in the court’s discretion, punitive damages. Under that same law [(20 USC 1095a(a)(8)], you may not discharge, refuse to employ, or take disciplinary action against an individual just because that individual is subject to AWG. That individual may sue you if you take such action and, if he or she prevails, the court will award attorney’s fees and, in its discretion, may order, among other things, reinstatement, punitive damages and back pay.

Termination of the debtor’s employment after you receive the Order does not terminate your liability for amounts you were supposed to have withheld.

F.A.Q and Inquiries:

1. If someone else already is garnishing my employee’s disposable pay, do I still have to comply with the AWG Order?

Yes, but the amount you must withhold may be reduced. The law (15 USC § 1673) imposes a maximum on how much can be garnished at any one time; currently, that maximum is 25% of the employee’s disposable pay. So if that current garnishment is taking, for example 20%, the AWG Order (assuming it is next in line) is still operable to the extent of the remaining 5% of the employee’s disposable pay. On the other hand, if the prior garnishment(s) account for 25%, then nothing would have to be withheld on the AWG Order, at least until the prior garnishment(s) were satisfied or expired.

Remember: that same Federal law also protects from garnishment a “floor” level of income equal to 30 times the minimum wage per week.

Remember: some garnishments expire (AWG Orders do not) even before the full amount has been paid, and once a prior garnishment expires (or is satisfied) the next garnishment usually takes over.

2. The AWG Order is not signed do I have to honor it?

Yes. The law (20 USC § 1095a) does not require that the Order must be signed to be valid and legally binding. However, if you have any question about the Order’s authenticity, please contact Michigan Guaranty Agency, AWG Unit, P.O. Box 30047, Lansing Michigan 48909-7547, 1-800-642-5626.

3. I am told that my state law forbids wage garnishment, so can’t I just ignore the AWG Order?

No. AWG is authorized by a Federal law (20 USC § 1095a) which specifically preempts State law.

4. What are the consequences if I fail to comply?

A non-compliant employer will be liable for, and subject to suit by the Michigan Guaranty Agency to recover, any amount that the employer fails to withhold after receipt of notice of the AWG Order, plus attorney fees, costs and at the court’s discretion, punitive damages.

5. Can I impose a fee for administering this? If I can, who pays?

That depends on the state; Michigan law does not permit the imposition of a fee or a charge on the employee. Federal law does not address the issue. You should check your state’s law.

6. (IF APPLICABLE) The Order directs that I send the payments to someone other than the Michigan Guaranty Agency. Is that OK?

Yes. Guaranty agencies, such as the Michigan Guaranty Agency are permitted to retain others to aid in the administration of the AWG process, including the collection of payments under an Order.

Employers with additional questions about wage withholding for defaulted student loans should contact:

Michigan Guaranty Agency
AWG Unit
P.O. Box 30047
Lansing, MI 48909-7547
1-800-642-5626